

# The South Carolina Court of Appeals

Marcus Riley, Appellant,

v.

Dorothy Riley, individually and Dorothy Riley, in her  
role as Personal Representative of The Estate of Marion  
F. Riley, Jr., Respondent.

Appellate Case No. 2023-001281

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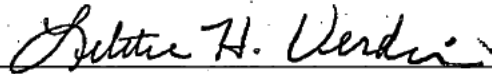
## ORDER

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On January 17, 2024, Respondent filed a motion to strike (1) Appellant's designation of matter filed on January 11, 2024, and (2) Appellant's final brief filed on January 11, 2024. No return was filed. Although Appellant filed a designation of matter shortly after filing his initial brief, Appellant filed a second designation of matter on January 11, 2024, when Appellant filed his record on appeal. The second designation of matter differed significantly from the first and was not filed with Respondent's consent or with leave of this court. Additionally, Appellant's final brief differed significantly from his initial brief. After careful consideration, we grant Respondent's motion to strike Appellant's designation of matter filed on January 11, 2024, and Appellant's final brief filed on January 11, 2024. *See* Rule 209(a), SCACR (explaining that a party shall serve all parties with his designation of matter at the same time he serves his initial brief); Rule 212(b), SCACR (noting a party may supplement the record on appeal with the written consent of all attorneys of record or with leave of the appellate court prior to oral argument); Rule 211(b), SCACR (explaining the final brief shall be identical to the initial brief except for revision of references to indicate where material appears in the record on appeal and correction of obvious typographical errors and misspellings).

Respondent also filed a "motion to reform" the record on appeal, asking this court to issue an order requiring Appellant to conform the record on appeal to Rule 210 of the South Carolina Appellate Court Rules. Respondent notes the record on appeal includes matter designated in Appellant's second, untimely designation of

matter, matter not presented to the trial court, and matter not designated by either party. Further, Respondent notes the record on appeal is not paginated, contains no index, and is not ordered properly. We note Appellant filed a record on appeal on January 11, 2024, and a second record on appeal on January 31, 2024, apparently in response to a deficiency letter from this court. The record on appeal filed on January 31, 2024, contains an index, but it is not paginated or ordered properly. We further note the record on appeal filed on January 31, 2024, does not appear to contain all matter designated by the parties and appears to contain matter not presented to the trial court. After careful consideration, we grant Respondent's motion. We strike the record on appeal filed on January 11, 2024, and we strike the record on appeal filed on January 31, 2024. Within twenty days of the date of this order, Appellant shall serve and file an amended record on appeal that complies with Rule 210, SCACR. Thereafter, the parties shall have ten days from the date of service of the amended record on appeal to serve and file their final briefs in compliance with Rule 211, SCACR. Failure to comply may result in dismissal of this appeal.



FOR THE COURT

Columbia, South Carolina

cc:

Ittriss J. Jenkins, Esquire  
James Martin Harvey, Jr., Esquire  
Richard Aaron Ness, Esquire

**FILED**  
**Feb 09 2024**